

Certificate of Notice Page 1 of 5
 United States Bankruptcy Court
 Eastern District of Pennsylvania

In re:
 Howard C. Lapensohn
 Howard C. Lapensohn
 Debtors

Case No. 16-12152-jkf
 Chapter 11

CERTIFICATE OF NOTICE

District/off: 0313-2

User: DonnaR
 Form ID: pdf900

Page 1 of 1
 Total Noticed: 2

Date Rcvd: Aug 05, 2016

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 07, 2016.

db +Howard C. Lapensohn, MAILING ADDRESS, Lapensohn Accounting,
 100 South Broad Street, Suite 1124, Philadelphia, PA 19110-1003
 aty +SMITH KANE HOLMAN LLC, 112 Moores Road Ste 300, Malvern, Pa 19355-1002

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
 NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Aug 07, 2016

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 5, 2016 at the address(es) listed below:

ANDREW F GORNALL on behalf of Creditor M&T Bank agornall@kmlawgroup.com,
 bkgroup@kmlawgroup.com
 BRIAN D. BOREMAN on behalf of Creditor Facial Concepts, Inc. bboreman@utbf.com,
 bschneider@utbf.com
 DAVID B. SMITH on behalf of Debtor Howard C. Lapensohn dsmith@smithkanelaw.com
 DAVID B. SMITH on behalf of Attorney SMITH KANE HOLMAN LLC dsmith@smithkanelaw.com
 DAVID B. SMITH on behalf of Defendant Howard C. Lapensohn dsmith@smithkanelaw.com
 DAVID CURTIS BENNETT on behalf of Creditor Fellheimer & Eichen LLP david@fellheimer.net
 GEORGE M. CONWAY on behalf of U.S. Trustee United States Trustee george.m.conway@usdoj.gov
 JOHN M. STRAWN on behalf of Interested Party US Department of Labor strawn.john@dol.gov,
 zzsol-phi-docket@dol.gov
 JOSHUA ISAAC GOLDMAN on behalf of Creditor M&T Bank bkgroup@kmlawgroup.com,
 bkgroup@kmlawgroup.com
 KRISTEN WETZEL LADD on behalf of Creditor Facial Concepts, Inc. kladd@utbf.com
 KRISTEN WETZEL LADD on behalf of Plaintiff Facial Concepts, Inc. kladd@utbf.com
 MEGAN N. HARPER on behalf of Creditor City of Philadelphia megan.harper@phila.gov,
 james.feighan@phila.gov
 ROBERT M. GREENBAUM on behalf of Debtor Howard C. Lapensohn rgreenbaum@sllclaw.com,
 rgreenbaum@skhlaw.com
 United States Trustee USTPRegion03.PH.ECF@usdoj.gov

TOTAL: 14

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	CASE NO. 16-12152-JKF
HOWARD C. LAPENSOHN,	:	
Debtor,	:	
<hr/>		
THOMAS E. PEREZ,	:	
SECRETARY OF LABOR,	:	
UNITED STATES DEPARTMENT OF LABOR,	:	
	:	
Movant,	:	
	:	
v.	:	
	:	
HOWARD C. LAPENSOHN,	:	
	:	
Respondent.	:	
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CONSENT ORDER

This Consent Order by and between Debtor, Howard C. Lapensohn ("Debtor"), and Thomas E. Perez, Secretary of Labor, United States Department of Labor ("Secretary"), is based on the following averments:

1. On March 30, 2016, Debtor filed a Petition for Relief under Chapter 11 of the Bankruptcy Code with this Court.
2. Debtor is a fiduciary to the Lapensohn Accounting Professional SIMPLE IRA Plan ("Plan").
3. Debtor and his co-fiduciary Lapensohn Accounting Professionals, LLC ("Company") entered into a Consent Judgment with the Secretary in the United States District Court for the Eastern District of Pennsylvania.
4. The Consent Judgment was approved by Judge Petrese B. Tucker on June 30,

2015. See Exhibit A attached hereto and made a part hereof.

5. The Consent Judgment found Debtor liable for his fiduciary breaches and ordered him to restore \$36,828.10 to the Plan by July 10, 2015. See Exhibit A at paragraph 4(b).
6. Debtor did not make any payments to the Plan pursuant to the Consent Judgment.
7. The Consent Judgment provided that if Debtor filed for bankruptcy protection prior to making full restitution to the Plan, Debtor would not oppose the Secretary's proof of claim for the amount still owed to the Plan and would not oppose any adversarial action to have the amount still owed to the Plan be declared to be non-dischargeable. See Exhibit A at paragraph 4(g).
8. The Secretary's Complaint in District Court alleged that Debtor and the Company are fiduciaries of the Plan pursuant to Section 3(21) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* See Exhibit B, at paragraphs 6 and 7, attached hereto and made a part hereof.
9. The Secretary's Complaint in District Court alleged that Debtor and the Company, by withholding employee contributions from their pay but failing to remit them to the Plan and by failing to make mandatory employer contributions to the Plan, breached their fiduciary duties in violation of Sections 403, 404, and 406 of ERISA, 29 U.S.C. §§ 1103, 1104, and 1106 and are liable as co-fiduciaries under Section 405 of ERISA, 29 U.S.C. § 1105. See Exhibit B, at paragraphs 10 and 11.
10. Pursuant to the Consent Judgment, Debtor agrees that the full amount owed to the Plan of \$36,828.10 is not dischargeable pursuant to Section 523(a) of the

Bankruptcy Code.

11. Counsel for the United States Trustee, George M. Conway, was contacted by counsel for the Secretary and stated that he will take no position on this Consent Order.

WHEREFORE, based on the above averments, the parties hereto agree that the above-referenced debt to the Plan is not dischargeable and request entry of this Consent Order.

Debtor Howard C. Lapensohn

/s/ Robert M. Greenbaum, Esquire
By: Robert M. Greenbaum, Esquire
Counsel for Debtor

SMITH KANE HOLMAN, LLC
112 Moores Road, Suite 300
Malvern, PA 19355
(610) 407-7216 phone
(610) 407-7218 fax
rgreenbaum@skhlaw.com

Date: June 29, 2016

M. Patricia Smith
Solicitor of Labor

Oscar L. Hampton III
Regional Solicitor

/s/ John M. Strawn
John M. Strawn
Attorney

Office of the Solicitor
170 South Independence Mall West
Suite 630 East, The Curtis Center
Philadelphia, PA 19106
Telephone No. (215) 861-5145
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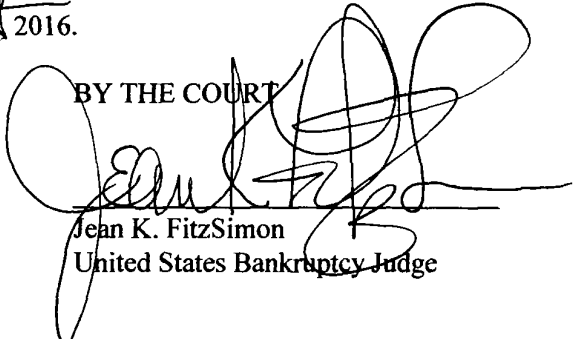
U.S. DEPARTMENT OF LABOR

Date: June 29, 2016

Based on the above-referenced Consent Judgment in the District Court and the foregoing averments agreed to by the parties, Debtor's debt to the Plan is declared to be non-dischargeable.

Approved by the Court on this 3rd day of August 2016.

BY THE COURT


Jean K. FitzSimon
United States Bankruptcy Judge